

# THE SCHOOL ADMINISTRATOR

## and Uniform Compliance Guidelines ISSUED BY STATE BOARD OF ACCOUNTS

Volume 160

December 2002

### ITEMS TO REMEMBER

#### DECEMBER

- |          |     |  |
|----------|-----|--|
| December | 1:  | Prove the Fund Ledger and Ledger of Receipts for the month of November to the control of all funds and reconcile the control with the depository statement. Prove all receipt accounts for each fund to total receipts for that fund. Prove the Ledger of Appropriations, Allotments, Encumbrances, Disbursements, and Balances to the total disbursements of the control account of the Fund Ledger. Prove all expenditure accounts with each program to the total disbursements of that program. |
| December | 20: | Last day to report and make payment of state and county income tax withheld during November to the Department of Revenue. (Please review Volume 140, Page 7, December 1997.)   |
| December | 20: | Payment for school aid bonds and coupons due in January must be made to civil townships by school corporations reorganized according to the provision of Chapter 202, Acts of 1959 if the reorganization plan provides for such payments or if the board of school trustees by resolution adopted has provided for such payments. (IC 20-4-1-35)   |
| December | 25: | Merry Christmas - Legal Holiday (IC 1-1-9-1)   |

#### JANUARY

- |         |       |  |
|---------|-------|--|
| January | 1:    | New Year's Day - Legal Holiday (IC 1-1-9-1)  |
| January | 2:    | Open a Ledger of Appropriations, Allotments, Encumbrances, Disbursements, and Balances by recording the appropriations by programs approved by the board of school trustees in the Resolution of Appropriations for the 2003 calendar year unless such appropriations must be reduced pursuant to action taken by the County Board of Tax Adjustment (if applicable) or by the Department of Local Government Finance. Record in the expenditure accounts of each program the allotments made by the board of school trustees. Also add to the 2003 year's appropriations by programs and to the expenditure accounts by allotments, any encumbered appropriations and allotments of the 2002 calendar year to be carried forward. |
| January | 2-31: | Annual meeting of the school board to organize as board of finance by electing one member as president and one member as secretary for the year. A school corporation (as defined in IC 36-1-2-17) may determine if a board of finance meeting is needed on an annual basis. (After the first Monday and on or before the last day of January.) (IC 5-13-7-6)  |
| January | 20:   | Last day to report and make payment of state and county income tax withheld during December to the Department of Revenue. (Please review Volume 140, Page 7, December 1997.)   |

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**JANUARY**  
(Continued)

- |         |     |   |
|---------|-----|---|
| January | 20: | Martin Luther King, Jr.'s Birthday - Legal Holiday (IC 1-1-9-2)   |
| January | 31: | Last day to file fourth quarter report with the Internal Revenue Service and complete payment of federal tax withheld. Each employee shall be furnished Form W-2. |
| January | 31: | Last day to file form 100-R, Report of Names, Addresses, Duties and Compensation of Officers and Employees, with the State Board of Accounts.                     |

**FEBRUARY**

- |          |     |  |
|----------|-----|--|
| February | 1:  | Prove all ledgers for the month ending January 31 as outlined for the month of December.   |
| February | 12: | Legal Holiday - Lincoln's Birthday. (IC 1-1-9-1)   |
| February | 17: | Legal Holiday -Washington's Birthday. (IC 1-1-9-1)   |
| February | 20: | Last day to report and make payment of state and county income tax withheld during January to the Department of Revenue. (Please review Volume 140, Page 7, December 1997.)            |
| February | 28: | Last day to file withholding statements together with Yearly Reconciliation of Employer's Quarterly Tax Returns with Internal Revenue and Indiana Department of Revenue, respectively. |

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**RETAINAGE ON PUBLIC WORKS CONTRACT**

IC 36-1-12-14 applies to public work contracts in excess of one hundred thousand dollars (\$100,000) for projects other than highways, roads, streets, alleys, bridges and appurtenant structures situated on streets, alleys and dedicated highway rights-of-way. IC 36-1-12-14 also applies to projects of a schoolhouse holding corporation or company qualifying under IC 21-5-11 or IC 21-5-12 or any other lease-back arrangement containing an option to purchase, notwithstanding the statutory provisions governing those leases.

**Contract Provisions**

IC 36-1-12-14(b) states "A board that enters into a contract for public work, and a contractor who subcontracts parts of that contract, shall include in their respective contracts provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors.

Either the board or contractor, or both, shall place the retainage in an escrow account, with a bank, savings and loan institution, or the state as the escrow agent. The escrow agent shall be selected by mutual agreement between board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and:

- (1) the board and contractor; or
- (2) the subcontractor and the contractor."

**Amount of Retainage**

IC 36-1-12-14(c) states "To determine the amount of retainage to be withheld, the board shall:

- (1) withhold no more than ten percent (10%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed, and nothing further after that; or
- (2) withhold no more than five percent (5%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted, an amount computed under subsection (f) of this section shall be withheld until those items are completed."

**Investments**

IC 36-1-12-14(d) states "The escrow agreement must contain the following provisions:

- (1) The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent.
- (2) The escrow agent shall hold the escrowed principal and income until receipt of notice from the board and the contractor, or the contractor and the subcontractor, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of escrowed principal and the same proportion of then escrowed income to the person specified in the notice.
- (3) The escrow agent shall be compensated for the agent's services. The parties may agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income. The escrow agreement may include other terms and conditions consistent with this subsection, including provisions authorizing the escrow agent to commingle the escrowed funds with funds held in other escrow accounts and limiting the liability of the escrow agent."

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Performance Bond

IC 36-1-12-14 (e) states "The contractor shall furnish the board with a performance bond equal to the contract price. If acceptable to the board, the performance bond may provide for incremental bonding in the form of multiple or chronological bonds that, when taken as a whole, equal the contract price. The surety on the performance bond may not be released until one (1) year after the date of the board's final settlement with the contractor. The performance bond must specify that: (1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile; (2) a defect in the public work contract; or (3) a defect in the proceedings preliminary to the letting and awarding of the public work contract; does not discharge the surety."

IC 36-1-12-14 (g) states "Actions against a surety on a performance bond must be brought within one (1) year after the date of the board's final settlement with the contractor."

IC 36-1-12-14 (h) states "This subsection applies to public work contracts of less than two hundred fifty thousand dollars (\$250,000). The board may waive the performance bond requirement of subsection (e) and accept from a contractor an irrevocable letter of credit for an equivalent amount from an Indiana financial institution approved by the department of financial institutions instead of a performance bond. Subsections (e) through (g) apply to a letter of credit submitted under this subsection."

Substantial Completions

IC 36-1-12-14 (f) states "The contractor shall be paid in full, including all escrowed principal and escrowed income, by the board and escrow agent, within sixty-one (61) days after the date of substantial completion, subject to sections 11 and 12 of this chapter. If within sixty-one (61) days after the date of substantial completion there remain uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed. Required warranties begin not later than the date of substantial completion."

**DEPOSITORIES – DEPOSITORY CONTRACTS**

The school board of finance is composed of the board of school trustees. A school corporation may determine if a board of finance meeting is needed on an annual basis. (IC 5-13-7-5)

IC 5-13-8-1 states "(a) A political subdivision may deposit public funds in an financial institution only if the financial institution:

- (1) is a depository eligible to receive state funds; and
- (2) has a principal office or branch that qualifies under section 9 of this chapter to received public funds of the political subdivision.

(b) The state board of finance shall make available information concerning financial institutions eligible to receive state funds as may be requested by a local board of finance. A local board of finance may rely on certificates described in IC 5-13-9.5-1(d) in determining to deposit public funds or reinvest public funds in the financial institution."

Please see Chapter 14, Uniform Compliance Guidelines Manual for Indiana Public School Corporations for information on Deposit and Investment of Public Funds.

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**PAYMENT TO BANK OF COMPENSATION DUE EMPLOYEES**

IC 5-10-9-2 provides that an employee of a municipal corporation may make a written request that any compensation due the employee from the municipal corporation be deposited to the employee's account in a bank or trust company. Upon receipt of request, the officer responsible for making the disbursements (Treasurer of School Corporation) may, instead of drawing a check to the requesting employee: (1) Draw a check in favor of the bank or trust company named in the request for the credit of the employee; or (2) In the event more than one employee of the same municipal corporation designates the same bank or trust company, draw a single check in favor of the bank or trust company for the total amount due the employees and transmit the check to the bank or trust company identifying each employee and the amount to be deposited in each employee's account.

The next succeeding Section, IC 5-10-9-3, provides that payment by a municipal corporation of a check properly endorsed and drawn in accordance with IC 5-10-9 constitutes full payment for the amount due the employee.

The amount to be sent to the bank is the "net" pay for the employee. A copy of each report sent to a bank or trust company must be retained on file with the corresponding payroll claim in the school business office for reference and audit purposes. When a "direct deposit" system is used in the payroll process, the balance of the payroll process would not change except that each employee not receiving a payroll check must be provided a non-negotiable statement of earnings and deductions (Deposit Advice) for each payroll period. Recap sheets for each depository, if applicable, should be maintained indicating direct deposit. Individual wage assignment agreements should be kept on file to support direct deposits.

**ANNUAL 100-R REPORT**

IC 5-11-13-1 states "Every state, county, city, town, township, or school official, elective or appointive, who is the head of or in charge of any office, department, board, or commission of the state or of any county, city, town, or township, and every state, county, city, town, or township employee or agent who is the head of, or in charge of, or the executive officer of any department, bureau, board, or commission of the state, county, city, town, or township, and every executive officer by whatever title designated, who is in charge of any state educational institution or of any other state, county, or city institution, shall during the month of January of each year prepare, make, and sign a written or printed certified report, correctly and completely showing the names and addresses of each and all officers, employees, and agents in their respective offices, departments, boards, commissions, and institutions, and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. However, no more than one (1) report covering the same officers, employees, and agents need be made from the state or any county, city, town, township, or school unit in any one year."

The State Examiner shall accept all such reports for filing and keep the same as public records which shall be open to public inspection and examination at reasonable times. (IC 5-11-13-2)

A person who violates the provisions of the statute requiring the report commits a class C infraction; if violated by an elected state officer, is liable to impeachment, and if violated by any other person, is subject to removal for neglect of duty under procedures in IC 34-17. (IC 5-11-13-3)

To facilitate the filing of the Report of Names, Addresses, Duties and Compensation of Public Employees, the State Board of Accounts has designed and prescribed Form No. 100-R which you may obtain from your public printing supplier. The report is to be prepared to include all officers, employees and agents as of January of the new year. The report should be filed with the State Board of Accounts, Indiana Government Center South, 302 West Washington Street, Room E418, Indianapolis, IN 46204, on or before January 31, of each year.

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**PAYMENT BY PUBLIC EMPLOYERS OF GROUP HEALTH INSURANCE PREMIUMS**

Official Opinion 2002-5 issued October 11, 2002 by the Attorney General of the State of Indiana states in the Conclusion "The language of IND. CODE § 5-10-8-2.6 unambiguously states that public employers may pay a *part* of the cost of group health insurance premiums for their employees. Rules of statutory construction hold that an unambiguous statute must be held to mean what it plainly expresses. *N. Miami Educ. Ass'n*, 746 N.E.2d at 382. Therefore, because the statute provides that employers may only pay a part of the cost, this language cannot be expanded or construed to allow employers to pay the full amount. The existence of a collective bargaining agreement allowing employers to pay the full amount would not alter this conclusion, as courts will not enforce contract terms that run contrary to statute or public policy. *Ahuja*, 675 N.E. 2d at 707."

**SOCIAL SECURITY WITHHOLDINGS - 2003**

We understand that for 2003 the maximum amount of taxable and creditable annual earnings subject to Social Security will increase to \$87,000 up from \$84,900 in 2002. No maximum base for Medicare will exist. Rates will remain at the 2002 level at a combined rate of 7.65 percent (both employer and employee for a total of 15.3 percent) representing a 6.20 percent rate for Social Security and 1.45 percent for Medicare.

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